

CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH**LUCKNOW****ORIGINAL APPLICATION No. 576 of 2006****ORDER RESERVED ON 30.10.2014****ORDER PRONOUNCED ON 11-11-2014****HON'BLE SRI NAVNEET KUMAR, MEMBER (J)****HON'BLE MS. JAYATI CHANDRA, MEMBER (A)**

- (1) Smt. Nirmala Srivastava aged about 62 years W/o M.M. Lal
R/o L6?M207 Sector M Sliganj Lucknow.
- (2) Smt. Sushma Srivastava aged about 40 years
- (3) Smt. Poonam Srivastava aged about 38 years
- (4) Smt. Neelam Srivastava aged about 35 years
- (5) Smt. Roopam Srivastava aged about 32 years
D/o of Madan Mohan Lal.
- (6) Pradeep Ranjan
- (7) Prabhat Ranjan
Sons of M.M.Lal R/o L-6/M-207 Sector M Aliganj, Lucknow.

Applicant**By Advocate :Sri R.S. Gupta****VERSUS**

1. Union of India through the Secretary Department of Post Dak Bhawan, New Delhi.
2. Director Postal Services Office of Chief Postmaster General U.P. Lucknow.
3. S.S.R.M. 'O' Division Lucknow.
4. Sri S.S.P. Tripathi, S.S.R.M. (R) R/o Puckcha Baste
5. Manager Gaya Prasad Dharam Shala Trust Sabzi Mandi Charbag, Lucknow.
6. Prabhu Masih, A.S.R.M. Retired R/o Sanik Behar, Lucknow.

Respondents**By Advocate: Sri Praveen Kumar holding brief for Sri G. K. Singh .****ORDER****By Hon'ble Sri Navneet Kumar, Member(J)**

The present Original Application is preferred by the applicant under Section 19 of the AT Act, 1985 with the following reliefs:-

- (a) That this Hon'ble Tribunal may kindly graciously be pleased to quash the order dated 21.11.2005 and 17.8.2006 as contained in Annexure No. 1 & 2 and refund the amount of Rs. 88820/- deducted from DCRG an pay of applicant (being still kept in office as a private) money.

(b) Any other relief deemed just and proper in the circumstances of the case with cost of O.A.

2. The brief facts of the case are that the applicant joined the respondents organization as Sorting Assistant in 1965 and superannuated after attaining the age of superannuation on 30.11.2005. The applicant was promoted and was granted the benefits as applicable to the applicant. During the course of service, the applicant was allotted private Dharamshala which he occupied on 11.8.1990. The applicant was served with a charge sheet in November, 2005 prior to date of retirement under Rule 16 of CCS (CCA), Rules, 1965 to which, the applicant has submitted the reply. The learned counsel for the applicant submits that the demand of electricity charges for the period ending 7.5.2005 is not justified since the applicant vacated the said premises in 1996 and the amount of recovery which is shown is also unwarranted. Not only this, it is also argued by the learned counsel for the applicant the electricity charges which were due upon the applicant was paid by him whereas, the respondents recovered an amount of Rs. 88820/- from the DCRG which is liable to be refunded.

3. On behalf of the respondents reply is filed and through reply, it is submitted that while serving as Sorting Assistant, the half portion of old SRO, RMS 'O' Division, Lucknow Building at Shah Gaya Prasad Dharshala, Charbagh, Lucknow was allotted to the applicant on 6.8.1990 and he vacated the said premises on 1.7.1996 and for the aforesaid period, he did not pay any electricity charges. It is also indicated by the respondents that after vacating the said premises, the same was allotted to one Sri Prabhu Masih who took possession of the aforesaid premises on 1.7.1996 and on his retirement vacated the quarter on 31.8.2001.

He also did not pay any electricity charges during the aforesaid

period. The electricity bill was received and it was informed to the applicant as well as to Mr. Prabhu Masih on which, Sri Prabhu Masih agreed to pay his share but the applicant expressed inability to clear the amount but both of them has not paid the amount so raised by the electricity department and finally, the electricity department issued another bill amounting to Rs. 1,42,111/- for the period up to 7.5.2005. The applicant submitted a letter on 11.11.2005 clarified that the amount in reference of electricity bill be paid from his pensionary benefits. This undertaking is given by the applicant after charge sheet under Rule 16 of CCS (CCA) Rules 1965 is served upon the applicant. Since the applicant has himself given a consent to recover the amount as such, the respondents are passed the said recovery order and recovered the aforesaid amount from the applicant.

4. On behalf of the applicant, rejoinder is filed and through rejoinder, mostly the averments made in the O.A. are reiterated and the contents of the counter reply are denied. It is also to be indicated that after the death of the applicant, the substitution application was moved by the legal heirs and the said substitution application was allowed. Not only this, respondents No. 4, 5 and 6 were given notice, but when they fail to appear, the case was heard finally.

5. Heard the learned counsel for the parties and perused the record.

6. The applicant was appointed in the respondents organisation and after attaining the age of superannuation, superannuated on 30th November, 2005. While he was working with the respondents, he was allotted an accommodation on 6.8.1990 which he vacated on 1.7.1996. After the vacation of the premises,

the same was allotted to another person who also vacated the same on 31.8.2001. There were certain electricity bills which were required to be paid by the applicant as well as the subsequent allottee. When nothing was paid, the applicant was served with a charge sheet under Rule 16 of CCS (CCA) Rules 1965 in the statement of misconduct, it is indicated that when the applicant was working as a sorting Assistant, he was allowed half portion of old SRO, RMS 'O' Division, Lucknow Building at Shah Gaya Prasad Dharshala, Charbagh, Lucknow which he vacated on 1.7.1996 and the electricity charges for the aforesaid quarter has not been deposited by him. Since he fail to deposit the due amount to the electricity department a bill amounting a sum of Rs. 1,42,111/- including amount of interest and surcharge was issued as such department is liable for payment of aforesaid bill. Since the applicant was in possession of the aforesaid accommodation as such, he is liable to make payment of the electricity charges used by him. In response to the charge sheet dated 9.11.2005, the applicant submitted a reply on 11.11.2005 requesting that he may kindly be indicating the amount which is to be deposited by him and it is also indicated in the said letter that the amount may kindly be recovered from his pensionary benefits and has also made a request for pardoning him. Accordingly, it was decided to recover a sum of Rs. 88820/- towards the share of the applicant from the amount of DCRG and also part of pay of the applicant for the month of November 2005. Though the applicant has submitted the appeal against the said recovery order and the respondents also considered the appeal of the applicant and rejected the same.

7. This is also undisputed fact that half portion of the accommodation was in the possession of the applicant during

the period 6.8.1990 to 1.7.1996 therefore, the electricity bill is required to be deposited by him regularly for the above period. The applicant has consume the electricity, therefore, it is accordingly due to the applicant during the aforesaid portion which the applicant failed to do so which resulted heavy arrears of electricity dues and raised to Rs. 1,42,111/- which indicates arrears and surcharge and non payment of electricity charges by the applicant as well as the subsequent allottee. Not only this, the applicant is responsible for accumulating the arrears of electricity dues which was finally recovered from his DCRG. When the electricity charges were due upon the applicant was not paid by him, the authorities under the compel circumstances issued a charge sheet and in reply to the charge sheet, the applicant himself has admitted in his defence reply dated 11.11.2005 that "the amount may kindly be recovered from my pension, I may kindly be pardoning". It cannot be said that the applicant has not accepted the guilt and made a categorically statement that the amount be recovered from his pensioanry benefits.

8. Since the applicant was in possession of the accommodation in question and he has also fail to indicate and that the electricity charges for the aforesaid period has been paid by him, the recovery so made from the applicant is not unjustified. As such, no interference is required in the present O.A.

9. Accordingly, the O.A. is dismissed. No order as to costs.

J. Chandra
(Ms. Jayati Chandra)

Member (A)

Navneet Kumar
(Navneet Kumar)

Member (J)